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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,749	02/13/2004	Yoshiyuki Horii	0505-1265P	5322

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EXAMINER
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YEAGLEY, DANIEL S

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/777,749

Applicant(s)

HORII ET AL.

Examiner

Daniel Yeagley

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All · b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/13/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The abstract of the disclosure is objected to because the last sentence describing an “upper end of the rear cushion being **supported by the pivot frame** via a bridge” is inconsistent with the specification and the drawings which disclose the --upper end of the rear cushion is supported by the rear swing arm via a bridge. Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4, 7, 9, 12 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsuchida et al '755.

Tsuchida shows a rear suspension having a front end of a rear swing arm 10 coupled to a body frame 5, a shock absorber 12 between the swing arm and body frame via a link (figure 6), wherein the shock absorber includes a damper 58, a cushion spring 43 and a cushion holder 42 and 45 at a lower end of the shock absorber that covers the outside of the cushion spring, such that one end of the link 35 is coupled to a side of the cushion holder by a pair of bosses on a side of the cushion holder, and shows a connecting part extending downward from the bottom of the cushion holder (figure 4), wherein a lower end of the shock absorber is coupled to the rear swing arm via the link, such that the link including a substantially triangular first link coupled to a second link (figure 6).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 3, 5, 6, 8, 10, 11, 13, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuchida et al '755 in view of Toyoda '577.

Tsuchida disclosed a rear suspension comprising a rear swing arm with a bridge installed between a left and right forked arms to support an end of a shock absorber (figure 3, 6 and 7), wherein the shock absorber is shown being arranged vertically and inclining forward between the arms supported by the bridge (figure 6), wherein a lower end of the shock absorber is coupled to the rear swing arm via a link at an intermediate portion that is arranged with a first end that connects to a stay attached to the body frame at numeral 37 and having a second end of the link that connects to the shock absorber, such that the intermediate portion of the link connected to another link 10a that is connected to the rear swing arm, and shows the link being coupled to sides of a cushion holder, wherein the holder has a bottom and is cylindrical to support a lower end of a cushion spring inside (figure 4 and 6) which further disclose a lower end of a piston rod extending from a damper of the shock absorber, wherein the piston rod is extended from a damper in a downward direction from the damper (figure 7), but failed to disclose the precise arrangement of parts, where the bridge between the left and right forked arms support *an upper end* of the shock absorber and where the lower end of the piston rod *extends downward from the damper to a lower end of the cushion spring* supported in the bottom of the cushion holder.

Art Unit: 3611

Toyoda shows a rear suspension arrangement that teaches the art of arranging an upper end of a shock absorber being coupled to an upper side of the rear swing arm 24 between left and right forked arms of a rear swing arm 24 by a bridge with the lower end of the shock absorber being shown coupled to the rear swing arm and body frame via links that include a triangular-shape link 32, and further shows a lower end of a piston rod extending downward from a damper of the shock absorber toward a lower end of a cushion spring supported in a holder.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the side mounted shock absorber assembly having the lower end of the shock absorber coupled to the rear swing arm by links and having a piston rod extending from a damper toward an end of a cushion spring as shown by the rear suspension of Tsuchida with a simple modification wherein the side mounted shock absorber is modified so that an upper end of the shock absorber is coupled to another part of the vehicle, such as the upper side of the swing arm 24 with the lower end still being coupled to the swing arm and the body frame via links as suggested by Toyoda to enhance the rear suspension and swing arm assembly while restraining weight of the vehicle as suggested by Toyoda (column 1-2) and simple dependent upon a matter of obvious design choice, since it is held that the mere reversal of essential working parts of a device and/or rearranging parts of an invention involves only routine skill in the art. In re Einstein, 8 USPQ 167 and In re Japikse, 86 USPQ 70.

*Conclusion*


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Padgett '495, Busby '213, Trema '717 and de Cortanze '604 show a rear suspension having a link supported on the side of the shock absorber and coupled to the rear swing arm.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is (571)-272-6655. The examiner can normally be reached on Mon. - Fri; first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on (571) - 272 - 6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D.Y.

  
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